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**DEFAMATION**

- ❖ Libel v. Slander
- ❖ Actionable *per se*
- ❖ Defenses?
- ❖ The First Amendment

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**DEFAMATION**

- ❖ The tort of defamation, as it existed at common law, can **be** defined as the unconsented to and unprivileged intentional communication to a third person of a false statement about the plaintiff which tends to harm the reputation of the plaintiff in the eyes of the community.

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**DEFAMATION**

- ❖ Injury is assumed
- ❖ Prima facie case consists of a simple allegation that the defendant intentionally communicated to a third person a statement about the plaintiff which tended to expose the plaintiff to "public hatred, shame, obloquy, contumely, odium, contempt, ridicule, aversion, ostracism, degradation or disgrace."

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**DEFAMATION**

- ❖ Injury is assumed
  
- ❖ Prima facie case consists of a simple allegation that the defendant intentionally communicated to a third person a statement about the plaintiff which tended to expose the plaintiff to "public hatred, shame, obloquy, contumely, odium, contempt, ridicule, aversion, ostracism, degradation or disgrace."

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**DEFAMATION**

- ❖ Libel v. Slander
  - (1) committed a crime of moral turpitude; or
  - (2) has venereal disease or something equally loathsome and communicable; or
  - (3) is somehow unfit or not to be trusted in her occupation; or
  - (4) is not chaste.
  
- ❖ Defense: Truth and Privilege

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**DEFAMATION**

- ❖ Amendment I
  
- ❖ Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

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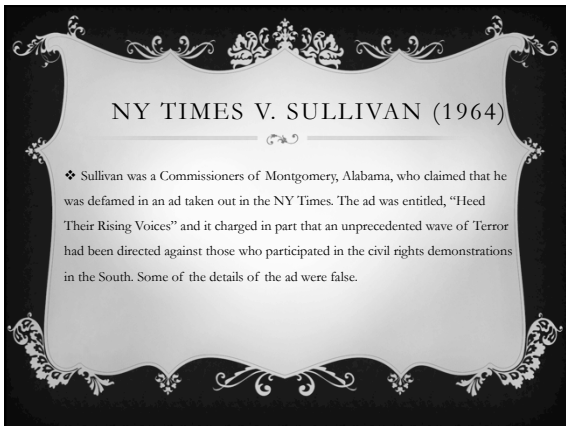
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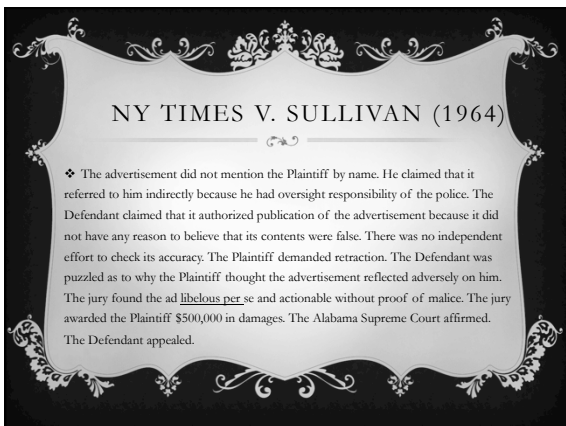
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**NY TIMES V SULLIVAN**

- ❖ Under Alabama law, a publication is libelous per se if the words tended to injure a person's reputation or to bring him into public contempt. The jury must find that the words were published of and concerning the plaintiff. Once libel per se has been established, the defendant has no defense as to stated facts unless he can persuade the jury that they were true in all their particulars.

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**WALKER & BUTTS**

- ❖ Government critics and Citizen critics
- ❖ Georgia, Alabama, Mississippi
- ❖ Actual Malice and Punitive Damages

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**ROSENBLUM V. METROMEDIA, INC**

- ❖ *New York Times* protection extended to defamatory falsehoods relating to private persons if the statements concerned matters of general or public interest.
- ❖ Constitutional protection extended "to all discussion and communication involving matters of public or general concern, without regard to whether the persons involved are famous or anonymous."
- ❖ Limited by *Gertz v. Robert Welch, Inc*

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*TIME, INC. V. FIRESTONE*

"enough extramarital adventures on both sides to make Dr. Freud's hair curl."

❖ Ms. Firestone did not voluntarily enter the public spotlight or freely choose to publicize issues concerning her married life. She had to use the courts to obtain a divorce. *Time's* attempt to "equate 'public controversy' with all controversies of interest to the public" failed.

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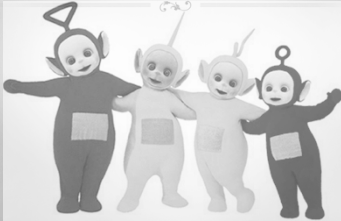
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*HUSTLER V. FALWELL (1988)*




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*HUSTLER V. FALWELL (1988)*



**CAMPARI** You'll never forget your first time.

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